

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 12005, of the Washington Ethical Society, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3101.42 to permit a church operated school with a maximum of 80 students in the R-1-B District at the premises 7750 - 16th Street, N.W., (Square 2745-F, Lot 81).

HEARING DATE: December 17, 1975

DECISION DATE: February 11, 1976

DISPOSITION: The Board denied the application by a vote of 4-0 (Walter B. Lewis, Leonard L. McCants, William S. Harps and William F. McIntosh to DENY; Lilla Burt Cummings not voting, having recused herself).

FINAL DATE OF ORDER: May 28, 1976

ORDER

Following the Board's denial of the application on May 28, 1976, the applicant filed a petition for review of the decision with the District of Columbia Court of Appeals. By judgement dated September 28, 1980, the Court of Appeals REVERSED the Order of the Board of Zoning Adjustment and REMANDED the case for further proceedings. By letter of December 5, 1980 the Zoning Secretariat advised counsel for the applicant that because the composition of the Board had changed significantly since the subject Order was issued, the Board had determined to hear the application de novo. In the letter of December 5, 1980 the Zoning Secretariat requested additional evidence so that the application could be properly processed. By letter of January 28, 1981, the applicant's Chairman of the Board advised the Zoning Secretariat that her counsel had forwarded to her the letter of December 5, 1980 of the Zoning Secretariat. The applicant stated that the present low enrollment at the school makes it unrealistic, and the school's present limited financial resources render it impracticable, to undertake a further application before the BZA at this time.


By telephone call of February 5, 1981, counsel for the applicant stated that the applicant's letter of January 28, 1981 constituted a request to WITHDRAW WITHOUT PREJUDICE the application. Upon consideration of the foregoing facts, the Board Granted the applicant's request. Accordingly, it is ORDERED that the application is WITHDRAWN WITHOUT PREJUDICE.

DATE OF DECISION: March 4, 1981

VOTE: 4-0 (Walter B. Lewis, William F. McIntosh, Douglas J. Patton and Connie Fortune to GRANT; Charles R. Norris not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:



STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 20 MAR 1981

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

Before the Board of Zoning Adjustment, D. C.

Application No. 12005 of the Washington Ethical Society, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3101.42 to permit a church operated school with a maximum of 80 students in the R-1-A District at the premises 7750-16th Street, N. W. (Square 2745-F, Lot 81)

HEARING DATE: December 17, 1975

DECISION DATE: February 11, 1976

FINDINGS OF FACT:

1. The property is located in an R-1-A District.
2. The church sponsored school was first established in 1968. The school use with an enrollment of 40 students was approved by the Zoning Administrator as a church school as a matter of right. A Certificate of Occupancy was issued to cover up to 40 students.
3. The school is currently operating with an enrollment of 65 students, more than the 40 permitted by the existing Certificate of Occupancy.
4. The Zoning Administrator has refused to approve a Certificate of Occupancy for 80 students until the applicant receives approval from the Board in accordance with Paragraph 3101.42 of the Zoning Regulations.
5. The proposed maximum enrollment would be limited to 80 students (35 junior high school students and 45 high school students). There would be a maximum of 11 teachers, one administrator and one secretary.
6. All activities would take place on the premises within the school building except for normal play activities in the play space located to the south of the building and physical education classes held twice a week for seventh and eighth grade students at the facilities of Shepherd Elementary School, located one block east of the subject property.
7. The school operates from 9:00 a.m. to 3:00 p.m., Monday through Friday. There are few evening school activities, those being limited to graduations, parents meetings, a scholarship dinner and a school play.

8. The applicant proposes to locate 12 or 13 parking spaces for students, faculty and visitor use at the rear of the site adjacent to a 16 foot public alley having access to Kalmia Road and Jonquil Street. The applicant proposed to arrange for 10 additional spaces to be located off-site at 7901-16th Street, N.W., on the property of the Christian and Missionary Alliance Church. These latter off-site spaces would be for faculty use only, and would be within 1000 feet of the subject site. The applicant offered no covenant running with the property of the Christian and Missionary Alliance Church to assure provision of these spaces.

9. The applicant's planning consultant testified that there are no increases in average noise levels as a result of the existing school. He also testified that a very small percentage of peak hour traffic in this area could be attributable to the school. He testified that the play area is screened from both adjoining property to the north and south. This testimony was contradicted and adequately refuted by the parties in opposition under cross examination and direct testimony.

10. The Municipal Planning Office, by report dated December 11, 1975, recommended approval of the application.

11. There was testimony in the record both in support of and in opposition to the school.

12. The school is located on the same site as the Washington Ethical Society, a church within the meaning of the Zoning Regulations and a use permitted as a matter-of-right. The church conducts some functions during evening hours which contribute to adverse traffic and parking conditions in the alley behind the subject site.

13. There are no commercial facilities in the immediate vicinity of the school. The nearest commercial facilities are on Georgia Avenue, more than one-half mile away, requiring students who are going to lunch to pass through the surrounding residential neighborhood.

14. The surrounding neighborhood is zoned R-1-A and developed primarily with detached single family dwellings. There is one junior college, one public elementary school and several churches in the area.

15. The Shepherd Park Citizens Association opposed the application on the grounds that the area should be retained for single family dwellings. The Association and its witnesses stated that the present students create litter problems in the neighborhood, discarding trash on the streets while going to and from lunch. The opposition also testified that students also generate excess noise levels in the area while on the streets. The opposition also testified that there are severe parking problems in the alley behind the school. The Board finds this testimony to be indicative of the negative effects that the school is having on the area, and finds that all these problems would be magnified were the application granted.

CONCLUSIONS OF LAW AND OPINION:


The Board concludes that the current school is operating with more students than is permitted by its Certificate of Occupancy. The Board concludes that the approval of the requested increase in the maximum number of students would adversely impact surrounding and neighboring property, by increasing noise, litter, traffic and other adverse impacts. The Board concludes that these adverse impacts would severely effect the existing neighborhood, and would prevent the neighborhood from enjoying the benefits of a quiet, orderly, single family area. The Board concludes that the granting of the requested special exception would not be in harmony with the general purpose and intent of the Zoning Regulations and Maps. It is therefore ORDERED that the application be DENIED.

VOTE:

4-0 (Walter B. Lewis, Leonard L. McCants, William S. Harps and William F. McIntosh to deny, Lilla Burt Cummings, Esq. not voting having recused herself).

BY ORDER OF THE D. C. BOARD OF ZONING ADJUSTMENT

ATTESTED By:


STEVEN E. SHER, Acting
Secretary to the Board

FINAL DATE OF ORDER: MAY 28 1976

THAT THE ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS ONLY UNLESS APPLICATION FOR A BUILDING AND/OR OCCUPANCY PERMIT IS FILED WITH THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT WITHIN A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER.